

Libby Community Advisory Group

Meeting Summary

September 11, 2003

Introductions

Gerald Mueller and members of the Libby Community Advisory Group (CAG) introduced themselves. A list of the members and visitors in attendance is attached below as Appendix 1.

Agenda

The CAG agreed to the following agenda for this meeting:

- EPA Report
- ATSDR Report
- Asbestos Related Health Care Project Report
- Environmental Justice Grant Letter
- ARD Net Report
- Public Comment

EPA Report

Jim Christiansen reported on behalf of EPA on the following topics.

Boat Ramp Cleanup - A sampling and cleanup plan has been developed, and sampling at the site began yesterday. Based on the sampling, the cleanup plan will be refined. Cleanup will begin on September 22. An addendum to the plan will set out the cleanup boundary.

Audience Member Question - At the last CAG meeting you said that the cleanup plan would be presented to the City Council meeting at its September meeting. Did you do so?

Answer - Earlier this week, I briefed the entire City Council regarding the plan, and they did not have any questions. The plan is public, and a copy is available at the EPA Information Center.

Audience Member Question - The time of the meeting at which you presented the plan was changed. Who changed the time?

Answer - I don't know. I asked the City to put it on a Council meeting agenda and advertise it the normal way.

Audience Member Comment - The plan was not presented to the public. I have sent EPA comments regarding the cleanup plan, and I ask that they be included with the summary of this meeting. I am aware of contamination issues on this site because I conducted a petroleum remediation on it for W.R. Grace. Vermiculite is boiling up through the asphalt on the access road to the site. (A copy of comments provided by D.C. Orr is included below as Appendix 2.)

Response - I wrote you a letter today responding to your comments. Included in the letter is a cleanup plan for the access road. Mr. Orr was invited to a pre-construction meeting regarding the boat ramp cleanup.

Audience Member Question - Did you address the ditches?

Answer - I did not address the ditches in my letter today. I will, however, discuss the ditches with Paul Peronard.

Comment Alan Stringer - The petroleum cleanup referenced by Mr. Orr was completed as required in the summer of 2000.

Audience Member Question - What about the illegal sewer system on the site?

Answer - I will look into this issue and get an answer.

BN Railroad Yard - Cleanup of the rail yard has stopped because the vacuuming of the track ballast was not working. The clearance sampling detected asbestos fibers. A new cleanup method is therefore under consideration. One alternative is physical excavation of the ballast. BN and EPA will decide on a cleanup method this winter, and cleanup will resume in the spring.

Flyway Cleanup - The administrative order for the cleanup has been signed and accepted by the bankruptcy court. EPA is negotiating a cleanup work plan with W.R. Grace. Cleanup will likely begin in the spring.

Residential Cleanups - About 130 residential cleanups have been finished to date, and the target number for this year is 200. The present pace will be maintained into the fall when it will be ramped down.

Long-Term Cleanup Issues - EPA has asked the Healthy Community Initiative to spearhead forming a work group to address the operation and maintenance issues that will remain after the Superfund cleanup is completed in several years. The work group will identify issues and develop a work plan for addressing them. Examples of the issues include the cleanup letter that will be provided to building owners after the cleanup is finished as well as how to respond to contamination left behind. Members of the work group will include representatives of EPA, the state, the CAG, the TAG, the business community, realtors, and people affected by asbestos contamination.

CAG Member Skramstad Comment - The cleanup at my house conducted by E.R. has been excellent. We are still discussing one area of contamination beneath the house.

Audience Member Lerah Parker Comment - The public has not been tuned into the cleanup of our property. There were differences in the cleanups conducted at Millwork West, Seifke, and Parker properties. Some equipment was cleaned and some was destroyed.

Response - Cleanup plans are public. We try to talk with everyone and to make the process as transparent as possible. The TAG is asking similar questions about cleanup consistency, and answers are being provided. Not every past action was documented. When the emergency response work began, guidelines were not available, and every decision was not documented. The situation is different between the cleanup of two properties versus 1,200 properties. EPA is improving its protocol as the cleanup progresses.

CAG Member Question - What group did you say you will be working with regarding the operation and maintenance plan for the period after the Superfund cleanup?

Answer - The Health Communities Initiative was asked to help EPA put together a work group.

CAG Member Comment - Two or three people whose homes were contaminated should be included in this group.

Answer - I agree.

CAG Member Comment - People with asbestosis should also be included.

Answer - I agree. People who have had to live with the contamination should be included.

ATSDR Report

Dan Strausbaugh reported that Myrna Lundy who acted as the coordinator for NORC in the medical screening has a serious brain disease and is in a rest home in Miles City. He stated that Ms. Lundy was always compassionate and respectful to people from Libby participating in the medical screening. He then passed out a sympathy card for CAG members to sign that would be sent to the Lundy family.

Asbestos Related Health Care Project Report

LeRoy Thom reported on behalf of the Asbestos Related Health Care Project (ARHCP). The ARHCP is a non-profit corporation established to administer the \$2.75 million provided by W.R. Grace pursuant to the consent decree in the mine access litigation brought by EPA against W.R. Grace. The ARHCP must administer these funds consistent with this decree to supplement the W.R. Grace Medical Plan. The Board of Directors of ARHCP includes: LeRoy Thom, President; Diana Rewerts, Vice President; John Johanson, Treasure; Marcia Fantozzi, Secretary; Carlyn Alsbury, Member; Jim Myers, Member; and Jeff Regh, Member. ARHCP reached agreement with W.R. Grace in January 2003. The ARHCP program is called the Libby Asbestos Medical Plan (LAMP). ARHCP has selected Montana Benefits and Health Connections (MBHC) to be the third party administrator of LAMP. This firm will administer the funds at or below its cost of doing so. Mr. Thom stated that three documents are available, a summary of LAMP, an explanation of LAMP benefits, and application forms. He then introduced personnel from Montana Benefits and Health Connections, include Jimmy Senterfitt, Chief Operations Officer, Tim Sizemore, Director of Provider Relations, and KaiEllen Bucher, Special Project Coordinator for LAMP. Mr. Senterfitt, stated that MBHC will administer the funds but will not be an insurer. His goal is to make the \$2.75 million go as far as possible. Enrollment in LAMP began with a mass mailing by the W.R. Grace medical plan administrator to all W.R. Grace plan participants. LAMP is meant to be the payer of last resort. It will coordinate benefits with those of other providers. People are eligible for LAMP if they are eligible for the W.R. Grace Medical Plan.

CAG Member Comment - Mr. Thom and the Board of the ARHCP are to be commended for their work in establishing this program. I can confirm that MBHC has not recovered all of its costs in setting up LAMP.

Audience Member Question - Will the \$2.75 million earn interest?

Answer - Yes.

Audience Member Question - How are these funds invested?

Answer - The \$2.75 million has been deposited in Glacier Bank. The fund we chose has a low interest rate because we could not accept restrictions on access to the money and could not take any risks of loss.

CAG Member Question - The \$2.75 million provided by the consent decree must supplement the W.R. Grace medical plan?

Answer - Yes. To receive funding, one must be eligible for the W.R. Grace Medical Plan. Not everyone, therefore, can receive benefits from LAMP.

Audience Member Question - Will LAMP pay for treatments denied by the W.R. Grace plan, or for bills which the W.R. Grace plan does not pay?

Answer - No. LAMP does not provide gap coverage.

Audience Member Question - Will ARHCP provide a public report on its finances on an annual or semi-annual basis?

Answer - The consent decree requires that W.R. Grace report quarterly to EPA. ARHCP must report to W.R. Grace on the same basis.

Audience Member Question - Is the LAMP eligibility period limited? What if my children become sick five or ten years from now?

Answer - Although \$2.75 million may seem like a lot of money, when it comes to medical expenses it is not. Because of the limited amount of funds, I would be surprised if the fund still exists five or ten years from now.

Audience Member Question - So the LAMP program will not help people with the 20% co-payment requirement in the W.R. Grace plan or people not eligible for the W.R. Grace plan?

Answer - It is best to review the eligibility requirements, but LAMP does not provide gap coverage, i.e. it does not pay all costs not born by the W.R. Grace Medical Plan.

CAG Member Question - Is it correct that W.R. Grace recently cut back from paying the full costs of medical treatment of asbestos-related disease to only 80% of the costs?

Answer by Alan Stringer - The payments have not changed, but have been the same for the last three years. The plan pays 100% of the usual, reasonable, and customary charges. However, there are no usual, reasonable, and customary charges for hospital bills, so in-patient hospital charges have been reimbursed at an 80% rate.

Comment by Rick Palagi - SJLH bills the patient's insurers, including W.R. Grace, Medicare, Medicaid, or others. We also work out payment plans with individuals for any bills not covered by insurance. We do not, however, turn people away because they cannot pay. We are unable to collect about 30% of all charges that we bill.

CAG Member Question - Has the Hospital turned over anyone to collection agencies?

Answer by Rick Palagi - I do not know, but I will find out.

CAG Member Question - To be sure that we are understanding what is being said, let's use an example. Suppose the hospital bill is \$5,000, and the W.R. Grace plan pays 80% or \$4,000. Will the LAMP program pay the other \$1,000?

Answer - No. The ARHCP Board decided that because the fund is limited, it would not provide gap coverage. We understood that in many cases the cost of administering the gap payment would exceed the payment, and we did not want administration costs eating up the fund. We did not understand that the W.R. Grace Medical Plan only paid 80% of hospital bills. The Board will revisit this issue.

CAG Member Comment - W.R. Grace should pay 100% of the medical costs of people it poisoned.

CAG Member Comment - Compensation for W.R. Grace executives should be reduced and more money made available to pay for Libby medical bills.

CAG Member Comment - In its medical plan, W.R. Grace defines asbestos-related disease. W.R. Grace should not be dictating to us what asbestos-related disease is, the federal government should define the disease based on the best available science, and W.R. Grace should then reimburse all medical costs.

CAG Member Comment - The Congress is considering language that would include a definition of asbestos-related disease that would not be acceptable in Libby, so we have been fighting a federal definition.

Audience Member Comment - My doctor is Dr. Whitehouse, a Spokane doctor. The LAMP payment should not be limited only to Libby or Montana medical charges.

Response - LAMP is not limited to covering the medical costs for qualified people in Libby or Montana.

Audience Member Comment - If W.R. Grace agrees to pay 100% of medical costs, what will prevent doctors from raising their prices?

Audience Member Question - Would W.R. Grace agree to set the co-payment on a sliding scale depending on the ability to pay?

Answer by Alan Stringer - I will take this question to W.R. Grace management.

CAG Member Comment - Please take back to your management that W.R. Grace should pay 100% of eligible medical costs. People have been coming to us concerned that their wives will be left in debt for burial costs thinking that W.R. Grace will pay 100% of their medical bills.

CAG Member Comment - The asbestos exposure was not an accident. It was deliberately done to us. W.R. Grace should pay every penny of medical and burial costs.

CAG Action - The CAG agreed to David Latham's offer to draft a letter to W.R. Grace stating that W.R. Grace should pay 100% of the cost of medical care arising from asbestos-related disease. Mr. Latham will provide a draft to Mr. Mueller who will circulate it to CAG members before the October CAG meeting. The CAG will act on the letter at the October meeting.

Environmental Justice Grant Letter

LeRoy Thom passed out a list of goals developed by the CARD Outreach for Recovery Assistance (CORA) environmental justice proposal (see Appendix 3).

CAG Action - The CAG agreed unanimously to send the draft letter that was included as Appendix 3 of the August 14 CAG meeting summary to Linda K. Smith, Project Officer U.S. Environmental Protection Agency, in support of CORA's environmental justice proposal. A signature page for the letter was passed around for CAG member signatures.

ARD Net Report

Karol Spas, Program Director for the Asbestos-Related Disease (ARD) Network, passed out a brochure explaining her program. She reminded the CAG that Lincoln County has received a three-year grant from the Health Resources and Services Administration of the US Department of Health and Human Services to support the program. The grant includes \$133,000 for 2003, \$162,000 for 2004, and \$190,000 for 2005. The program will assist people in applying for available asbestos-related health services from Social Security, SSI, Medicaid, and Medicare, as well as drug assistance and other programs. It will also include money for direct services such as personal care and house keeping. Eligibility criteria for the direct services are being developed. Ms. Spas requested comments from the community about needed services. She also asked for a CAG member to serve on the ARD Board of Directors, and Gayla Benefield volunteered to do so.

Finally, she also asked for volunteers to work with the program and provide services to people impacted by asbestos-related diseases.

TAG Report

George Keck passed out copies of a September 9, 2003 letter Jim Christiansen responding to the list of action items in Mr. Keck's August 8, 2003 letter, which was included as Appendix 4 to the August 14, 2003 CAG meeting summary. A copy of Mr. Christiansen's letter is included below as Appendix 4. Mr. Keck stated that EPA has either responded by providing requested documents or by referencing documents that still being written or reviewed.

Public Comment

Audience Member Comment - A recent story in the Missoulian stated that Libby was a safe place to live. This is not true. While Libby may be cleaner and safer, it is not clean or safe. The CAG and/or EPA should be providing information stating this fact. People should not be moving here and buying homes thinking that it is safe to do so.

CAG Member Question - Can you give us an update on ambient air sampling in Libby?

Answer by Jim Christiansen - Ambient air sampling is not detecting any asbestos. Health risks remain here, otherwise EPA would not be planning to spend \$20 million per year for the next five years. This risk should be put in a balanced context, however.

Audience Member Question - I have heard that the administrator of the W.R. Grace health plan has sent out a letter requesting that plan members sign up for a free autopsy, but the information from it would stay with W.R. Grace. Is this correct?

Answer by Alan Stringer - The request that the plan pay for autopsy came from plan members, so W.R. Grace has agreed to pay for it. The information distribution is subject to the federal HYPPA regulations.

CAG Member Question - Can the information be provided directly to the deceased family?

Answer by Alan Stringer - That is a fair question.

CAG Member Comment - Families should be willing to share the actual cause of death in the obituary.

Response by David Latham - While I agree, doing so is at the family's discretion.

CAG Member Comment - Something is wrong with this picture. W.R. Grace is willing to pay 100% of autopsy costs, but not 100% of medical costs.

CAG Member Comment - During the July CAG meeting, I asked Dan Strausbaugh to answer two questions regarding Dr. Gerderding's June 20, 2003 letter to me (Clinton Maynard). First, what information did she rely upon to reach her decision that CERCLA connects the declaration of a public health emergency to critical short-term healthcare needs? Second, I asked that Dr. Gerberding define the "appropriate" public health services in Libby. Apparently, Mr. Strausbaugh has not passed on my questions to Dr. Gerberding.

Response by Dan Strausbaugh - I answered your first question during the July CAG meeting, and I did not agree to search government transcripts and records from the 1982 Congressional Hearings for specific reference to "critical short-termed health care needs." I explained that Dr. Gerberding's interpretation was likely her own. Regarding your second question, I also stated

that I assumed that “appropriate” referenced ATSDR’s mission, identifying and preventing exposure to toxic chemicals. I stated that ATSDR has been doing this in Libby.

CAG Member Comment - People in Libby will die at an early age without appropriate medical care.

Response - Congress sets the rules and the appropriate funding for agency activity. Picking apart the letter will not change the agency’s response.

CAG Member Question - What is our legal recourse concerning ATSDR’s failure to declare a public health emergency?

Audience Member Question - Writing another letter will not go to any rule or law or interpretation of law supporting Dr. Gerberding’s decision. We apparently have no recourse. Can you tell me what the next step might be?

Answer by Dan Strausbaugh - I don’t know of any appeal process for Dr. Gerberding’s decision.

CAG Member Comment - Dr. Gerberding’s letter puts ATSDR on record as declining to declare a public health emergency because the Department of Health and Human Services lacks resources and statutory authority. Maybe we should write a letter to our Congressional delegation asking for their assistance and include a copy of Dr. Gerberding’s letter.

Audience Member Comment - Homeowners do not have recourse to ask questions about how safe we are. People don’t have the health care we need. EPA is not resolving issues. It has moved from cleanup of asbestos contamination to containment. After four years of cleanup, the Parker property is still not clean. An EPA report during the 1980's stated that the area within 22 miles of the expansion plant was contaminated. I hear about surveys of Libby people regarding the cleanup. I have not been surveyed. Has anyone here?

Next Meeting

The next regular CAG meeting is scheduled for 7:00 to 9:00 p.m. on Thursday, October 9, 2003 in the Ponderosa Room of Libby City Hall.

Appendix 1
CAG Member & Guest Attendance List
September 11, 2003

Members	Group/Organization Represented
George Keck	Technical Advisory Group (TAG)
Sandy Wagner	Community Health Center/TAG
Clinton Maynard	Area Asbestos Research Group
W.K. Maki	Libby Schools
Bob Dedrick	Asbestos Victim
George Bauer	City of Libby
Ken Hays	Senior Citizens
David F. Latham	<i>The Montanian Newspaper</i>
Wendy Thomi	EPA Community Involvement
Jim Christiansen	EPA Project Manager
Dan Strausbaugh	ATSDR/Region 8/Montana
Leroy Thom	Former Grace Employee
Gayla Benefield	Lincoln County Asbestos Victims Relief Organization
Les Skramstad	Asbestos Victim
Gary D. Swenson	Libby Volunteer Fire Department
Kerry Beasley	St. John's Lutheran Hospital (SJLH)
Rick Palagi	SJLH

Appendix 2

Please accept these comments to the work plan proposed for the cleanup of "Riverside Park", Operable Unit #4 of the Libby Asbestos site.

My first comment is that this site is actually part of Operable Unit #1 and was supposed to have been cleaned by WR Grace (Grace) under Unilateral Administrative Order (UAO). The UAO specifically stated in Sec. 1.2.4 that Operable Unit #1 was defined as a section of land with its Northern boundary being the Kootenai River.

The reason this site was designated Operable Unit #1 is that it presents the highest threat to public health in Libby because of its location adjacent to the population center and the presence of great quantities of high level contaminant

Grace was not required to meet the conditions of the UAO and I believe the political dynamics responsible for that failure remain in place today and threaten the success of this present venture. These dynamics center around the \$1,000,000 worth of improvements Grace paid for on property owned by the Mayor of Libby in a deal struck during the cleanup of Operable Unit #1 which put the Mayor in business with a building materials retail operation called Millwork West. Millwork West has since become a major supplier of materials for EPA contractors with cost plus contracts and no requirement for obtaining bids for materials.

EPA OSC Paul Peronard, along with a host of local politicians, signed a letter of support for this corruption and has done much to minimize the complications it created. This latest incident could have been avoided. When a City loader operator took a buried, concentrated pocket of vermiculite and spread it over three acres of riverbank it created the worst single point exposure Libby has suffered since the closure of the mine. This loader operator told his Supervisor there was vermiculite present at the beginning of the excavation and his Supervisor ordered him to continue the excavation and bury the vermiculite. The Supervisor was trying to protect his Mayor from the legal problems that would arise from admitting that Grace was not required to remove all of the contamination under the UAO. I see EPA protecting the Mayor in the same way in certain elements of this work plan.

The most glaring omission is found in Figure 3-1 where it clearly shows EPA has no intention of cleaning the riverbank downstream and to the west of the picnic area. This area was identified in MT DEQ violation notice CVID # 7273 as the spot where City crews tried to hide the contamination by dumping it over the bank and covering it with clean dirt. MT DEQ noted violations of the Montana Water Quality Act and the Solid Waste Management Act in this violation notice. The violation notice mentioned that Jim Christianson indicated EPA would remove the vermiculite and reclaim the riverbank. The citation noted three other requirements to bring the site into compliance.

1 Install and maintain Best Management practices (BMP5) such as silt fence and/or erosion control fabric in the disturbed areas along the river.

2 Seed the area.

3 Waste, such as the asphalt in the fill material west of the boat ramp, must be removed.

Failure to comply will bring enforcement action from the State. It is also necessary to remove this 6 foot lens of soil before EPA can determine if the original riverbank was contaminated with vermiculite. EPA may be required to remove uncontaminated material that is the responsibility of the City. Under Superfund regulations, this may be illegal. The City Attorney is caught in the middle of this situation. Can he truly represent the best interests of the City when he is making money off of the EPA lab that is set up on his property? Mr. Spencer sent a hardball letter to Paul Peronard on May 30, 2001 requesting restoration of Operable Unit #1 and the return of Millwork West to City property as required under the work plan filed for the UAO. Since EMSL, the EPA lab, started renting from him we have heard no more about the restoration issue. He has not pursued legal action against Grace for failing to comply with the UAO.

MT DEQ has good reason not to trust the City. A few years ago City Supervisor Dan Thede, in

direct violation of City policy, was using a City backhoe to perform an after hours project for a third party. He tipped the hoe over and it bled oil and fuel out of every orifice into the ground. His initial response to the State in violation notice CVID #4581 proved to be untrue, a total fabrication. He had just told them what they wanted to hear. Mr. Thede is EPA's prime contact for the work required under this order and he answers directly to the Mayor who is the secondary contact. Both have shown a willingness to put personal issues ahead of the best interests of the people of Libby.

EPA continues to cover up the actions that created this mess in Section 2.3.1.2 when they say that "renovation activities may have also "inadvertently" placed contaminated soils along the riverbank". This was no accident. The operator told his Supervisor about the contamination and was ORDERED to bury it along the riverbank and in the river. This would have been a negligible incident if he hadn't been forced to continue digging after identifying the contamination. Mr. Thede, being the Supervisor who instructed his subordinate to hide the vermiculite encountered at the boat ramp, has a conflict of interest in this cleanup. He is directly responsible for the exposures suffered by his employee and everyone who uses the park. He has much to gain by minimizing this disaster. He should have no role in the cleanup that would permit him to avoid responsibility for his actions in creating this mess. If I had my way, he would be paying for the cleanup.

The Mayor has a conflict of interest as exposed by Councilman George Bauer on October 9, 2002 in a recorded council meeting. When I asked for the final restoration plan on Operable Unit #1, Councilman Bauer stated that the Mayor couldn't talk about that site since he had a conflict of interest. The Mayor cannot legally be publicly involved in decisions concerning Operable Unit #1 (or #4), EPA, or Millwork West, Still, according to Jim Christianson at the last CAG meeting, EPA is using him as a contact to make decisions on this site, privately, secretly, without public scrutiny. At that same CAG meeting, Mr. Christianson refused to answer certain questions about this site and the Mayor's relationship to it, citing the OIG investigation as his reason. The Mayor has already seen to it that materials used for cover and BMPs at this site were purchased from Millwork West. There will be tons of materials purchased for this project to meet the BMP requirements for bank stabilization, for fencing, recreation and park items. The Mayor should not be in a position to profit from this tragedy by influencing the purchase of those materials from his renter, Millwork West. It is my contention that the Mayor's relationship with Millwork West and Grace was the direct cause of this release of hazardous material and the attending threat to human health that it poses. Without influence from the Mayor, Grace would have been forced to comply with the UAO and this site would have been cleaned. Beyond that, the actions of the Supervisor in ordering the contamination to be buried, were designed to protect the Mayor. I further believe that EPA should restrict their interaction with the Mayor until after the Office of Inspector General investigation is complete. In their haste to put Millwork West in business with the Mayor, it seems EPA installed an illegal septic and storm sewer system on the Mayor's property. If EPA is found to have deliberately taken liberties with our water supply, that is reason enough to separate these two from doing business that will affect the health of the citizens of Libby.

I know that there is a lot of vermiculite left on this site from my experience as an earthmover. I planted some of the trees in the park, and encountered vermiculite. I dug a cable line through the park. We encountered vermiculite and back filled the ditch with the contamination. I told Paul Peronard about these incidents in July of 2000. He never took any action to protect the people of Libby. It should be obvious to anyone that the bump jutting out into the river which comprises the picnic area is an unnatural fill. This fill material most likely was placed by Grace and will be found to contain high levels of contaminant

In the spring of 1999, the pavement of the access road to Highway 37 started breaking up. It got so bad that my dump trucks got stuck trying to pull up the hill. It wasn't horribly soft, just slick.

That is because that access road was built by Grace and is basically a huge pile of vermiculite. The vermiculite was boiling up through the pavement. This structure has not been tested and is totally avoided in the work plan. The north side of this ramp is in the park.

I performed a petroleum release remediation for Grace at this site. We dug up around 800 cubic yards of bunker oil soaked dirt and hauled it to the mine. When it came time to replace that material and fill the ditches, we scraped the topping off of the area around the buildings. This was some pretty contaminated stuff, probably the worst on site since it was the surface used to stockpile ore historically. I remember three loads that went in the ditch that were raw ore, the stuff that kids used to jump in. Those ditches were not excavated when Grace performed the cleanup of Operable Unit #1. That is when I knew that Grace was going to get away with all they have done in Libby, with the blessing of the City fathers, the EPA, and a host of local politicians. if you don't address the concerns delineated in this letter, we will revisit this site for the next 50 years. The exposures we are suffering today will continue. Our children and grandchildren will continue to play in the "black shiny death" that they find at this park.

EPA has failed to clean this site up in the two efforts previous to this one. The reason is obvious to me. Grace is spending a lot of money buying politicians and bureaucrats so that they can escape their responsibilities in Libby. Please don't let history repeat itself.

Thank you for your concern.

Sincerely, DC Orr

*1117 Nevada Avenue
Libby, MT 59923*

Phone 406-293-4702

Appendix 3

CORA's Goals for Environmental Justice Collaborative Problem Solving Grant

Goal 1: Develop and maintain collaborative partnerships and network for psychosocial problem solving and coordination of all services related to the Libby Asbestos Disaster.

Coal 2: To provide direct services to all CARD patients and other people receiving medical screening and/or services related to ARD.

- The primary facility for the provision of CORA services will be the CARD. However, CORA will also provide services in all other agency settings of the collaborative partners.

Types of Psychosocial Services that can be provided:

- Provide individual guidance and support to facilitate healthy socio-emotional adjustment to this chronic disease
- Provide appropriate health and behavioral education in combination with psychological and social support to facilitate lifestyle adaptations to minimize health impacts and maximize quality of life
- Provide short term counseling services to facilitate adaptation to: chronic stress, chronic illness, grief, and terminal illnesses.
- Provide short term counseling services to identify and remediate mental health issues secondary to asbestos exposure.
- Provide informal and formal mental health evaluations and assessments.

Goal 3: Develop educational materials about the psychosocial impacts associated with exposure/risks, diagnosis, disease, and long term care (health care, palliative care, research, economics, etc.) and disseminate information at an individual, group, and community level.

Goal 4: Provide home and community based outreach services, throughout Lincoln county, to people struggling with psychosocial issues related to the Libby asbestos exposure and its sequel.

Goal 5: To provide psychosocial education and support to service providers, formal and informal community leaders, and other groups addressing needs related to the Libby asbestos disaster.

Goal 6: To develop local capacity to sustain psychosocial support services for those struggling with issues related to the Libby asbestos exposure and its sequel.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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September 9, 2003

Mr. George Keck
Libby Area Technical Assistance Group
PO Box 53
Libby, MT 59923

RE: August 8, 2003 "Action Item" Letter

Dear George:

As I committed, I have provided a response to each of the action items you presented subsequent to our July 15, 2003 meeting. Answers corresponding to each question are given below:

1. Strictly speaking, there is no amount of any cancer causing material that is "safe." This is no different for Libby asbestos. Any single fiber of Libby asbestos, or molecule of benzene, or particle of saccharin, has the *potential* to start the reaction which leads to cancer. However, if every single fiber of Libby asbestos *actually* caused cancer, every person in Libby, and every person who has ever contacted Libby vermiculite, would contract some asbestos-related disease. This is clearly not the case, especially considering that people in Libby have probably breathed in thousands of fibers over the course of their lives. Not to downplay the magnitude of the problem in Libby, but the fact is that many, if not most, people in Libby are not sick and will never show effects from asbestos exposures despite being exposed at some level during their lives.

What is important in cancer causing materials are the odds that any particular particle of the material will be the one in question. The more toxic the material, the higher the odds. Libby asbestos is certainly more toxic than chrysotile asbestos. Similarly, the more material you contact, the higher the odds. Exposures in Libby in the past were very high and occurred regularly over time. EPA regulates cancer causing materials considering that no matter what you do, unless you remove every molecule, if enough people are exposed someone will get cancer. Removing every particle is impossible, and in many cases we, individually and as a society, make decisions that some risk is acceptable if the materials in question have offsetting benefits - fossil fuels, pesticides, and food additives and cigarettes, to name a few. EPA Superfund risk assessment and risk management methods reflect the philosophy that EPA, and our society, find it acceptable - safe - that as many in 1 in 10,000 people will get cancer, even if there are no benefits. EPA takes the best possible estimates of toxicity, concentration, and exposure, and tries to predict how much is too much. This information provides the basis for EPA to take action. This approach reflects the reality that no cleanup will be perfect, and that there must always be trade-offs between practicality and protection. Paul Peronard cautioned that the time would soon come when we would have to make these difficult decisions in Libby.



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EPA has publicly discussed the emerging science of asbestos in Libby, and tried to be completely honest and forthright about what is known and unknown. Many people have formed the impression that there is no level of Libby asbestos that is “safe.” Many also believe that, because of the unknowns, the most conservative action possible must be taken, without regard to feasibility or resources. EPA is partly responsible for this impression and, as discussed above, it is grounded in reality. However, Paul has never stated, nor have I, that we would ever be able to remove all sources of Libby asbestos in Libby or across the country. EPA’s goal is to remove as much as can practically be removed and to bring long-term risk down to levels generally considered acceptable (e.g. 1 in 10,000 if achievable). The uniqueness of the situation in Libby calls for aggressive measures, but EPA must ensure that available resources are focused on the situations that present the greatest risk. If there are other ways to make the situation in Libby “safe” without removing material, such as containment, these must be considered, especially given the tremendous size of the cleanup. On any single house or property, removing every detectable particle of Libby asbestos or vermiculite may increase the cost of cleanup by hundreds of thousands of dollars and extend the duration by several weeks or months. When the cleanup is expanded to more than 1000 homes, that means hundreds of millions of dollars and decades.

EPA’s emergency response program has been focused on addressing the situations that present the greatest risk first. The screening and export plants, ball fields, schools, and other situations were addressed quickly and thoroughly. The amount and concentrations of asbestos found at these locations were often extremely high and the risks they presented were the highest that were still remaining in Libby. EPA spent more than 50 million dollars cleaning up these areas and it has taken the better part of three full years. Conversely, the amount and concentrations of asbestos remaining in homes and businesses today is generally much smaller, and the risk it presents is smaller, but now the scope of the cleanup is not a handful of properties, but well over 1000. As EPA has investigated the problem and began actually implementing cleanup (a type and level of cleanup never attempted before), EPA has had to continually evaluate and reevaluate what is possible, what is necessary, what works, and what doesn’t. There is no “revised science,” nor is there any fundamental shift in our goals, only the emerging reality of a program that balances protectiveness, implementability, and resources. In the past, because EPA conducted cleanup only in select locations where the risks were the highest, the most conservative, protective decisions were made nearly every time. Because of the scale of the problem we face, EPA must now engage in discussions and decisions about what approaches are feasible and what level of exposure will be “acceptable” in Libby. This is a painful discussion and one in which EPA will never be able to meet all expectations. Libby residents rightfully should question and evaluate these decisions as they evolve.

As I have mentioned several times, EPA is currently in the process of finalizing documents that detail several aspects of the cleanup program - how we sample, how we determine what needs to be cleaned up (action levels), how we perform cleanup, and what determines when we are done (clearance criteria). The program is not simple, and the rationale is not something that can be conveyed in a few sentences or even a short fact sheet. EPA will provide these documents to the TAG and others for review as soon as possible. It is important that the documents are well thought out and thoroughly reviewed before they are released. Poorly worded sentences or unintended inconsistencies can cause lasting concerns, and there is much at stake in cost recovery with W.R. Grace and in other EPA actions across the country regarding asbestos. These documents will answer many of the questions regarding our current approach to cleanup and expand upon what I have written here. Additionally, EPA is currently working on education and outreach materials for residents and workers who may encounter vermiculite. Wendy Thomi

and I will continue to work with TAG on the need for and development of such materials.

2. Each property EPA addresses is unique and the conditions we face at each property change throughout the progress of cleanup. Using the same approach at every property, or even at the same property from start to finish, is unnecessary and inefficient. People observing these changing and differing approaches from the roadside may get the impression of inconsistency. In fact, EPA's goal is consistently meeting cleanup requirements in the most efficient way possible. With the complexity of the cleanup work and the number of individuals doing the work, mistakes may be made. EPA is always looking for ways to improve the effectiveness and the efficiency of the cleanup.

I have provided Gordon Sullivan with copies of our existing Health and Safety Plans and other documentation that helps explain vehicular, equipment, and personal decontamination procedures. I have invited Gordon to speak directly with our Construction Manager and Health and Safety Coordinator regarding the specifics of these programs and this has already occurred. Through a review of the documents and direct discussion, I am confident that members of the TAG will realize the efficacy of our approaches, and that EPA will learn ways to improve health & safety and decontamination procedures.

3. EPA does not believe that personal vehicles present cross-contamination issues. Private vehicles are parked in areas that are not within exclusion zones and workers decontaminate before using their vehicles. While the presence of several vehicles may be an eyesore or an inconvenience, it is not something EPA will seek to change significantly. Having vehicles present allows workers to reach and leave the job site quickly, thereby eliminating down time and providing workers flexibility in how they spend their personal time. Given that most of the workers work at least 60 hours of week, this is important. If a specific incident occurs where a worker's vehicle presents a problem for a resident near a cleanup site, please contact CDM's Community Involvement Coordinator, Karen Berry.

4. The rationale and approach for perimeter and interior air sampling is contained in the documents being prepared that will be available for public review soon, though the procedures they set forth have not changed significantly since we began residential cleanup last year. We are also working on a summary of two kinds of air data: (1) ambient air samples - collected in various places in Libby when cleanup work is not occurring in the immediate area, and (2) perimeter air samples - collected at work sites in Libby during cleanups. These documents will show a trend that ambient air in Libby is clean, is not affected by the ongoing cleanup actions, and that engineering controls in place for cleanups are successfully eliminating fugitive emissions. I have also invited Gordon Sullivan to discuss these issues with our technical team.

5. EPA's sampling approach and procedures for the many types of sampling conducted before, during, and after cleanup are found in several Sampling and Analysis Plans developed by EPA. Each type of sampling (investigation, design, work place monitoring, clearance) has its own Sampling and Analysis Plan. Many of these are available at the Information Center now. Some are currently being finalized along with the other documents I have mentioned and will be publicly available soon.

Your question seems to focus mostly on why EPA seals off areas of the home during cleanup and during clearance sampling and whether this practice undermines the representativeness of the clearance sampling (whether the clearance sampling accurately reflects future exposures). EPA seals off areas such as vents, ducts, and windows during cleanup because it is industry

standard and is required by OSHA and EPA for conducting asbestos abatement. The purpose is to isolate the area being addressed during cleanup, provide for establishment of negative pressure in the work space, and prevent contaminant migration away from the area of cleanup (e.g. from the upstairs to downstairs, or from the attic into the interior, or from inside to outside). Critical barriers set up during cleanup are not removed until sampling shows clearance criteria have been met.

As to the representativeness of clearance sampling, it is certainly true that sealing off certain areas eliminates them as a factor during sampling. This is not limited to sealing but also affects EPA's approach to personal possessions (discussed in Number 12 below). However, when considering this, it is critical to discuss the approach to interior clearance sampling and criteria. While such sampling and the criteria EPA applies are commonly referred to as the "safe" level or the level at which residents are "allowed" to return to their homes, clearance sampling is not that simple. There are two primary objectives with clearance sampling. First, such sampling allows EPA to determine that cleanup activities for the structure itself - the attic and living space - were successful. The intention is not to evaluate whether every material, space, or object in the home is free of asbestos - that is simply beyond our ability to implement or sample for. Second, it allows EPA to evaluate levels of asbestos present in the home under highly disturbed, though *controlled*, conditions. EPA generally does not allow residents to return to their homes until clearance levels are attained. The clearance levels are very low - based upon values that might be "safe" for a lifetime of continuous exposure and they are collected under conditions that approach the worst case scenario. They do not represent a level that might be "safe" for short-term exposure; such a level would be considerably higher. Because of this conservative and protective approach, in isolated cases we may allow residents back when clearance standards have not been achieved. Clearance sampling is not intended to provide a definitive measurement of future asbestos levels in the home, and not sealing off any areas would not change this. Such measurements can be affected by many, many variables (in addition to sealed areas and personal possessions) and can only be gleaned from conducting sampling of actual exposure levels after cleanup has occurred and the resident resumes normal activities. As discussed in Number 8 below, such sampling is planned this fall.

6. The question of carpet removal is a difficult one. Carpet can act as both a source and a trap for asbestos fibers that are introduced into a living space. Textiles such as drapes and clothes are similar. As a source, this can be bad, as disturbing the carpet or textiles can release fibers into the breathing zone. As a trap, this can be good, as fibers that are trapped in carpet are removed from the living space rather than being continually re-suspended. There are many studies available, several conducted by EPA, that discuss the feasibility and success of cleaning asbestos contaminated carpets with dry HEPA vacuuming and with wet vacuuming. Most of these studies consistently show that neither wet or dry vacuuming removes all asbestos from the bulk materials of the carpet and that wet methods are more successful than dry ones. However, EPA's assumption in Libby was that dry vacuuming will remove asbestos fibers that are most likely to be released with disturbance. If fibers don't come out with aggressive disturbance and vacuuming, they are unlikely to come out during normal activities. What is important is what is in the air, not what is in the carpet.

As we began residential/commercial cleanup in Libby, it became clear that the effort and cost required to remove and replace all carpets (not to mention textiles such as furniture and fabrics) in residences would be extremely large. Similarly, introducing water into the living spaces of homes would also certainly generate many, many resident complaints and damage claims. This option is also more expensive. While we considered and continue to consider these approaches,

we ultimately opted to use dry HEPA vacuuming as an initial approach. EPA has consistently been able to pass aggressive air clearance testing by cleaning carpets, textiles, and surfaces with dry HEPA vacuuming, so results are promising. Additionally, depending on the situation, EPA may offer to remove carpet for a resident if the home requires cleaning and if the resident agrees to pay the cost of carpet replacement. After cleanup EPA will provide residents with HEPA vacuums so that they will be addressing any low-level contamination that may be reintroduced into living spaces on an ongoing basis. Finally, this fall, EPA intends to revisit many homes that have been cleaned to determine whether carpets and other textiles that were not removed are releasing asbestos into the living space. If they are, we may reevaluate our approach.

7. Similar to Number 2 above, I have provided Gordon Sullivan with copies of our contractor's Health and Safety Plans and invited him to discuss these issues with our CDM Health and Safety Coordinator. Many of the documents under development also address issues of worker safety in various contexts. Health and safety is extremely important to EPA and a primary concern during our work. We conduct extensive monitoring and precautions to ensure the workers' safety. However, much of the responsibility for worker safety falls to the contractors EPA employs to perform the work. While EPA reviews, comments and provides guidance on health and safety plans and procedures, we generally will not put ourselves in an "approval" role for contractor health and safety. EPA will not assume this liability and responsibility. Of note, the Occupational Safety and Health Administration (OSHA) has conducted several field inspections of our field operations and has issued no negative findings.

While it is known that smoking is a health hazard and more so in conjunction with asbestos exposure, EPA may not have a legal basis for forbidding smoking by workers. Smoking is not illegal. The workers labor hard and are making the individual choice to do this during their break. EPA is open to discussing this issue further.

8. Plans for follow up air and dust testing at homes are currently being developed. EPA intends to perform initial post-cleanup sampling in fall 2003 and will provide the TAG with draft copies of sampling plans when they are developed.

9. We have based our containment approach for interior and exterior cleanup on many factors, including existing OSHA and EPA regulations regarding asbestos cleanup, efficiency, and the results of ongoing monitoring performed at cleanup sites. As more cleanups occurred and results showed the effectiveness of containment, EPA reduced the amount of sampling. This makes the work more efficient without sacrificing protectiveness. While one may argue with the placement of samplers or readings on particular samples, the results obtained over several years show a clear trend that fugitive emissions are not a problem. As stated previously, EPA is currently preparing a summary of this data, and the most current procedures for sampling are found in the documents being developed. I also welcome Gordon or others to discuss our sampling approaches for both interior and exterior cleanup with representatives from CDM.

10. Exactly how much exposure is "safe" is not a question with a clear cut answer. EPA and others continue to investigate and improve understanding work on improving our understanding of these issues. However, there are many distinctions that can be made right now about what exposures are most important and which are least important, even considering the many uncertainties involved in asbestos analysis and risk assessment. For instance, all of the risk models available, even the most current ones, suggest that certain concentrations of asbestos are likely to cause significant problems only if exposure occurs frequently and over long periods of time, such as thirty or more years. These are generally the concentrations that residents in Libby

face today. As I discussed in Number 1 above, exposure to some level of Libby asbestos will continue to occur indefinitely both in Libby and across the country. By all measures we have to assess the risks, these types of exposures do not increase one's risk of health effects significantly. In Libby, EPA is acting to prevent these exposures from continuing for long periods of time.

Heating vents are a separate discussion and similar to the issues affecting carpet removal. Cleaning heating vents and ducts, similar to carpets, is not a trivial undertaking. The general concern is that heating ducts collect contamination and recycle it throughout the home. However, based upon the data collected to date, it does not appear that this is the case. If this was the case, our dust sampling data throughout Libby would have shown a pattern of dust levels that were consistent around the home as contamination was spread through forced air system. Instead, we generally see a pattern of one level of the home being impacted (e.g. the ground floor or the floor below the attic), which indicates some a particular source, usually outdoor soils or perhaps attic insulation. Similar to carpets, it is not as important what is in the duct, but what gets into the living space. Based on these factors, our approach is not to sample or clean ducts, but we will evaluate this approach in our post-cleanup sampling. If ducts are a problem, we should see significant re-contamination of properties we cleaned after heating is activated for the winter.

11. To clarify, I did not say that any studies or reports that Dr. Chris Weis produced were "flawed and outdated." When I made this statement, I was referring to the current EPA model for assessing asbestos risk, the "IRIS" model, which is generally acknowledged as being flawed and outdated. Paul Peronard, Dr. Chris Weis, Dr. Aubrey Miller, and I have discussed this issue publicly many times. Dr. Weis referenced this model in several documents he authored, and we will continue to reference this model in our reports, while continuing to acknowledge its limitations. The IRIS model is still the only EPA approved model for assessing risk from asbestos exposure and we cannot ignore it. While flawed, it can also still provide valuable information regarding relative risk at differing exposure concentrations and durations, as discussed in Number 10 above. EPA is currently conducting a review of an alternative risk model, known as the Berman-Crump model, which we are also considering as we develop cleanup plans and standards in Libby. I can provide a copy of this model to the TAG's technical advisor.

As part of the documents I've discussed, EPA is currently preparing additional screening level risk estimates for Libby. These estimates consider both the IRIS and Berman/Crump model. They expand upon, not replace, earlier risk estimates put forth by EPA in Dr. Weis' risk memo. This will be available for public review soon.

12. Similar to the discussion on ducts, carpet, and textiles, cleaning all personal possessions is a daunting prospect for many reasons. Generally, EPA believes these items will not represent a long-term exposure hazard, have little potential for storing significant amounts of asbestos, and are simply too numerous to try to clean or sample. Once the source that may have contaminated such materials is removed, any residual contamination on these materials will decline. So, in general, EPA does not intend to clean personal possessions but does intend to (1) provide HEPA vacuums to residents so that they can address any low-level residual contamination that may be reintroduced into the living space after cleanup, and (2) provide guidance for addressing other potential sources/traps of asbestos that EPA will not address, such as personal possessions (washing clothes or fabrics is very effective). Storing materials in plastic bags prevents damage to the items and ensures that very small amounts of untraceable asbestos from personal possessions do not affect clearance sampling.

Again, EPA's rationale for our approach to cleanup and clearance is laid out in the draft documents that will be available soon.

13. The roles and responsibilities of the various government representatives and contractors are specified in the documents currently being produced. In general, EPA is ultimately responsible for all decisions. However, we delegate the responsibility for many decisions to others, and we standardize many decisions by setting clear standards for completion that do not need subjective interpretation. In general, after each cleanup, the property must:

- \$ pass inspection by an AHERA accredited inspector. EPA employs MACTEC, an asbestos specialty firm, to conduct such asbestos abatement inspections;
- \$ pass aggressive air sampling of the area in question (e.g. attic, a particular level of living space). MACTEC and CDM conduct this sampling and samples are analyzed at our on-site asbestos lab, operated by EMSL;
- \$ meet the terms of the cleanup agreement. CDM oversight personnel ensure that physical work by the cleanup contractor was done in accordance with any applicable contract or work plan documents.

Once these procedures are complete, the property is "deregulated" by general agreement of the many people involved in the cleanup - no one person makes most decisions. For most properties, this is very consistent and there is clear agreement that the work is complete. In unique situations, myself, Courtney Zamora, or Scott Supernaugh may make decisions based upon the information available but, again, this is rare.

14. EPA is currently developing a fact sheet including guidance on "Living with Vermiculite." The TAG is currently reviewing this document and EPA will finish and distribute the document once the TAG submits comments. The fact sheet includes contacts but these will change over time. It is EPA's intent to work with the community in establishing procedures for identifying and handling this material when necessary. This is one of several "operation and maintenance" issues that EPA will include in the long-term, comprehensive cleanup plan for Libby.

15. This question is a difficult one to answer in a short letter, because it involves extensive knowledge of multiple asbestos analytical techniques and many site-specific studies and procedures EPA has developed specifically for Libby. In general, the quality of information from the on-site lab is at least equal, but generally better, than if the *same analysis* were performed off-site. This is because the on-site lab uses the same equipment and methods as off-site labs and has very experienced analysts that remain in Libby. However, the on-site lab generally only performs rapid turnaround analyses - there are some analyses that take longer to perform that we send off-site.

16-18. As mentioned above in Number 14, there are many long-term issues including comfort letters, how to address properties where residents refuse cleanup, how to deal with residual contamination, etc. that will take time to address. EPA envisions formation of a work group in the near future to begin tackling these issues. TAG and other local groups and representatives must be part of this work group.

I hope these answers, as well as forthcoming documents and discussions, help answer TAG's concerns. I look forward to working with the TAG to improve our approach, alleviate community concerns, and ensure a successful cleanup. If you have any questions, please do not

hesitate to contact any of the local Volpe/CDM staff, Wendy Thomi or me.

Sincerely,

Jim Christiansen
Remedial Project Manager